

United States Courts
Southern District of Texas
FILED

AUG 30 2005

Michael N. Milby, Clerk of Court

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

DOUGLAS KAYE

Plaintiff

VS.

SYNTHES (USA) LP

Defendant

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§
§
§

CAUSE NO. 4:05-CV-02809

JURY

DEFENDANT SYNTHES (USA) LP's INITIAL DISCLOSURES

TO: Plaintiff, Douglas Kaye, by and through his attorney of record, Andrew E. Rubenstein,
The Mallia Law Firm, P.C., One Riverway, Suite 610, Houston, TX 77056

COMES NOW, DEFENDANT, SYNTHES (USA) LP, and files its Initial Disclosures
required by Fed.R. Civ.P.26 the referenced cause, and would respectfully show the Court as follows:

- A. THE NAME AND, IF KNOWN , THE ADDRESS AND TELEPHONE NUMBER OF
EACH INDIVIDUAL LIKELY TO HAVE DISCOVERABLE INFORMATION THAT THE
DISCLOSING PARTY MAY USE TO SUPPORT ITS CLAIMS OR DEFENSES, UNLESS
SOLELY FOR IMPEACHMENT, IDENTIFYING THE SUBJECTS OF THE
INFORMATION.

Plaintiff

Douglas Alan Kaye, Plaintiff

***Andrew E. Rubenstein
The Mallia Law Firm
One Riverway, Suite 610
Houston, TX 77056
(713)224-1100 - Telephone
(713)222-7086 - Facsimile
Attorney for Plaintiff***

Defendant

Corporate Representative(s) of
Synthes (USA) LP
1302 Wrights Lane East
West Chester, PA 19380

Defendant, a Delaware partnership, asserts that it did not manufacture or market any orthopedic medical devices. It has been correctly named, but because of its lack of connection to the design, manufacture and marketing of any Synthes products, it should not be a party to this matter.

Deanna H. Livingston
Livingston & Livingston, L.L.C.
1770 St. James Place, Suite 100
Houston, TX 77056
(713)783-6919 - Telephone
(713)862-9587 - Fax
Attorney for Defendant

Healthcare Providers

The following are physicians and/or healthcare providers who treated or assisted in the care of Mr. Kaye. Because of their training and experience, each possesses special expertise in various matters relevant to a variety of issues present in this case. Although none of these health care providers have been specially retained by or are subject to the control of Synthes (USA) LP any of the following individuals may be asked to provide expert testimony as to their past, present and/or predicted future treatment of Mr. Kaye as well as to the probable causes of Mr. Kaye's condition, both now and in the past.

Accordingly, Synthes (USA) LP reserves the right to rely on these individuals' knowledge and expertise through the use of introduction of any depositions or other testimony and/or the medical records containing these care providers' observations as well as their medical opinions as they may pertain to the matters at issue in this case:

Timothy Sitter, M.D.
15400 Southwest Freeway, Suite 100
Sugar Land, TX 77478
(281)565-8800

***Kenneth Renney, M.D.
15400 Southwest Freeway, Suite 100
Sugar Land, TX 77478
(281)565-8800***

***Sugar Land Surgical Hospital
1211 Highway 6, Suite 70
Sugar Land, TX 77478
(281)243-1000***

***Houston Orthopedic/Sports Medicine Associates, P.A.
Timothy Sitter, M.D.
15400 Southwest Freeway, Suite 100
Sugar Land, TX 77478
(281)565-8800***

Custodians of Records

The persons listed below are custodians of medical and/or business records pertaining to Douglass Kaye. Each is expected to have knowledge of the records and how the records are generated and maintained. Defendant lists the following custodians of medical and other business records:

***Custodian of Records for
Timothy Sitter, M.D.
15400 Southwest Freeway, Suite 100
Sugar Land, TX 77478
(281)565-8800***

***Custodian of Records for
Kenneth Renney, M.D.
15400 Southwest Freeway, Suite 100
Sugar Land, TX 77478
(281)565-8800***

***Custodian of Records for
Sugar Land Surgical Hospital
1211 Highway 6, Suite 70
Sugar Land, TX 77478
(281)243-1000***

Custodian of Records for
Houston Orthopedic/Sports Medicine Associates, P.A.
Timothy Sitter, M.D.
15400 Southwest Freeway, Suite 100
Sugar Land, TX 77478
(281)565-8800

- B. A COPY OF, OR A DESCRIPTION BY CATEGORY AND LOCATION OF, ALL DOCUMENTS, DATA COMPILATION, AND TANGIBLE THINGS THAT ARE IN THE POSSESSION, CUSTODY, OR CONTROL OF THE PARTY AND THAT THE DISCLOSING PARTY MAY USE TO SUPPORT ITS CLAIMS OR DEFENSES, UNLESS SOLELY FOR IMPEACHMENT.

Any such documents are maintained at the offices of Livingston & Livingston, L.L.C., 1770 St. James Place, Suite 100, Houston, TX 77056, Houston, TX 77056

1. ***The Product Insert packaged with the product alleged to be the source of Plaintiff's claims. [copy attached].***

- C. A COMPUTATION OF ANY CATEGORY OF DAMAGES CLAIMED BY THE DISCLOSING PARTY, MAKING AVAILABLE FOR INSPECTION AND COPYING AS UNDER RULE 34 THE DOCUMENTS OR OTHER EVIDENTIARY MATERIAL, NOT PRIVILEGED OR PROTECTED FROM DISCLOSURE, ON WHICH SUCH COMPUTATION IS BASED, INCLUDING MATERIALS BEARING ON THE NATURE AND EXTENT OF INJURIES SUFFERED.

No damages are being claimed by Defendant at this time.

- D. FOR INSPECTION AND COPYING AS UNDER RULE 34 ANY INSURANCE AGREEMENT UNDER WHICH ANY PERSON CARRYING ON AN INSURANCE BUSINESS MAY BE LIABLE TO SATISFY PART OR ALL OF A JUDGMENT WHICH MAY BE ENTERED IN THE ACTION OR TO INDEMNIFY OR REIMBURSE FOR PAYMENTS MADE TO SATISFY THE JUDGMENT.

Not applicable.

- 2(a)1. A PARTY SHALL DISCLOSE TO OTHER PARTIES THE IDENTITY OF ANY PERSON WHO MAY BE USED AT TRIAL TO PRESENT EVIDENCE.

Timothy Sitter, M.D.
15400 Southwest Freeway, Suite 100
Sugar Land, TX 77478
(281)565-8800

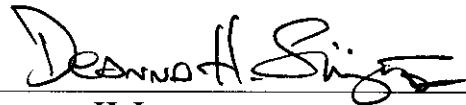
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15400 Southwest Freeway, Suite 100
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(281)565-8800

Deanna H. Livingston
1770 St. James Place, Suite 100
Houston, TX 77056-3405
Attorney for Defendant

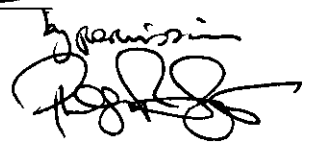
Andrew E. Rubenstein
The Mallia Law Firm
One Riverway, Suite 610
Houston, TX 77056
Attorney for Plaintiff

Respectfully Submitted,

LIVINGSTON & LIVINGSTON, A TEXAS L.L.C.



DEANNA H. LIVINGSTON
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1770 St. James Place, Suite 100
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Telephone: (713) 783-6919
Facsimile: (713) 862-9587



ATTORNEYS FOR DEFENDANT,
SYNTHES (USA) LP

CERTIFICATE OF SERVICE

A true and correct copy of the above and foregoing pleading was duly served upon all parties or their counsel of record via certified mail, return receipt requested and/or via facsimile and/or by placing same in the United States Mail, postage prepaid, properly addressed to the counsel of record, on this the 29th day of August 2005.

Mr. Andrew E. Rubenstein
THE MALLIA LAW FIRM, P.C.
One Riverway, Suite 610
Houston, TX 77056

***Via CMRRR# 7004 1160 0002 8465 3278
and Regular Mail***


DEANNA H. LIVINGSTON